IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 19TH DECEMBER 2007 / 28TH AGRAHAYANA 1929

Bail Appl..No. 7860 of 2007()

CRIME NO.369/07 OF THE MANJESHWAR POLICE STATION

PETITIONER/ACCUSED

IRSHAD @ ECHU, S/O MAMMAD,
KOPPALA, BANKARA, MANJESHWAR,
KASARAGOD.

BY ADV. SRI.T.B.SHAJIMON

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REP. BY
SHO MANJESHWAR POLICE STATION,
REP. BY PUBLIC PROSECUTOR, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. S.U. NAZAR.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 19/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 7860 OF 2007

Dated this the 19th day of December, 2007

ORDER

Application for anticipatory bail. The petitioner is the 4th accused. Altogether, there are 5 accused persons. The petitioner is the one of the four accused persons named in the F.I.R. The crime is registered, inter alia, under Sec.326 read with Sec.149 of the IPC. On account of prior animosity, the accused persons had allegedly attacked the victim. The attack was mounted with dangerous weapons – wooden sticks. Fracture of the left leg was the injury suffered. Prompt F.I.R. has been lodged. Investigation is in progress. The petitioner apprehends imminent arrest. Accused 1 to 3 have already been arrested and enlarged on bail, it is submitted.

2. The learned counsel for the petitioner prays that anticipatory bail may be granted to the petitioner.

3. The learned Public Prosecutor opposes the prayer ascertaining that there are no circumstances whatsoever justifying the invocation of the extraordinary equitable discretion under Sec.438 of the Cr.P.C.

4. Having considered all the relevant inputs, I find no features in this case which can justify or warrant the invocation of the extraordinary equitable discretion under Sec.438 of the Cr.P.C. This, I agree with the learned Public Prosecutor, is a fit case where the petitioner, like his co-accused, must appear before the Investigating Officer or the learned Magistrate having jurisdiction and then seek regular bail in the ordinary course.

5. In the result, this bail application is dismissed; but with the observation that if the petitioner surrenders before the Investigating Officer or the learned Magistrate and seeks bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously – on the date of surrender itself.

Sd/-

(R. BASANT, JUDGE)

Nan/ //true copy// P.S. to Judge